

1 ANDREW R. LIVINGSTON (State Bar No. 148646)  
 2 alivingston@orrick.com  
 3 ERIN M. CONNELL (State Bar No. 223355)  
 4 econnell@orrick.com  
 5 ORRICK, HERRINGTON & SUTCLIFFE LLP  
 6 The Orrick Building  
 7 405 Howard Street  
 8 San Francisco, CA 94105-2669  
 Telephone: +1-415-773-5700  
 Facsimile: +1-415-773-5759

9  
 10 Attorneys for Defendants  
 11 Chase Home Finance, LLC (on behalf of itself and as successor  
 12 in interest to Chase Manhattan Mortgage Corporation) and  
 13 James Boudreau

14  
 15  
 16 UNITED STATES DISTRICT COURT  
 17 SOUTHERN DISTRICT OF CALIFORNIA

18  
 19 CHRISTOPHER CLARK and JAMES  
 20 RENICK, individuals,

21 Plaintiffs,

22 v.

23 CHASE HOME FINANCE, LLC, a Delaware  
 24 LLC doing business in California; CHASE  
 25 MANHATTAN MORTGAGE  
 26 CORPORATION, a New Jersey corporation  
 27 doing business in California; JAMES  
 28 BOUDREAU, an individual; and DOES 1-25,

Defendants.

Case No. 08 CV 0500 JM RBB

**DEFENDANTS CHASE HOME  
 FINANCE, LLC, CHASE  
 MANHATTAN MORTGAGE  
 CORPORATION AND JAMES  
 BOUDREAU'S NOTICE OF MOTION  
 AND MOTION FOR JUDGMENT ON  
 THE PLEADINGS PURSUANT TO  
 RULE 12(c) OR, IN THE  
 ALTERNATIVE, MOTION FOR  
 PARTIAL SUMMARY JUDGMENT  
 PURSUANT TO RULE 56**

Date: May 30, 2008  
 Time: 1:30 p.m.  
 Dept.: 16  
 Judge: The Hon. Jeffrey T. Miller

1 TO PLAINTIFFS CHRISTOPHER CLARK AND JAMES RENICK AND THEIR  
 2 ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that on May 30, 2008 at 1:30 p.m., or as soon as this matter  
 4 may be heard in the above-entitled Court, located at the Edward J. Schwartz U.S. Courthouse,  
 5 940 Front Street, San Diego, California 92101-8900, before the Honorable Jeffrey T. Miller,  
 6 Defendants Chase Home Finance, LLC (“Chase”) (on behalf of itself and as successor in interest  
 7 to Chase Manhattan Mortgage Corporation (“Chase Mortgage”)) and James Boudreau  
 8 (“Boudreau”) (collectively, “Defendants”) will and do hereby move this Court, pursuant to  
 9 Federal Rule of Civil Procedure 12(c), for judgment on the pleadings in their favor on the First  
 10 Amended Complaint (the “FAC”) of plaintiffs Christopher Clark (“Clark”) and James Renick  
 11 (“Renick”) (collectively, “Plaintiffs”) and such other relief as may be just.

12 This motion is made on the ground Clark undisputedly released all six of causes of action  
 13 he asserts in the FAC, as is evident from Exhibit A to Defendants’ Answer. Further, Plaintiffs’  
 14 third cause of action for statutory penalties for failure to provide accurate itemized wage  
 15 statements, and Plaintiffs’ sixth cause of action for civil penalties under California’s Private  
 16 Attorneys General Act (“PAGA”), are both subject to a one-year statute of limitations, and  
 17 therefore are time barred. Accordingly, as is evident from the pleadings alone, from documents  
 18 incorporated into the pleadings, and from documents properly subject to judicial notice, there is  
 19 no triable issue of material fact and Defendants are entitled to judgment as a matter of law as to  
 20 all six of Clark’s claims, and as to Clark’s and Renick’s third and sixth causes of action, as more  
 21 fully set forth in the accompanying memorandum of points and authorities in support of the  
 22 motion.

23 PLEASE TAKE FURTHER NOTICE that, on the same date and at the same time,  
 24 Defendants will and do hereby move in the alternative, pursuant to Federal Rule of Civil  
 25 Procedure 56, for partial summary judgment of all six of Clark’s causes of action, and of Clark’s  
 26 and Renick’s third and sixth causes of action. This alternative motion is made in the event that  
 27 the Court relies upon extrinsic evidence when ruling on the motion, and is made on the same legal  
 28 grounds set forth above as to Defendants’ motion for judgment on the pleadings, as more fully set

1 forth in the accompanying memorandum of points and authorities in support of the motion.

2 This motion is based on this Notice, the Memorandum of Points and Authorities in  
3 Support of the Motion, the accompanying Declaration of Erin M. Connell and exhibits thereto,  
4 and the Request for Judicial Notice, all of which are served and filed herewith; the pleadings on  
5 file in this action, any matters upon which the Court may or must take judicial notice; any  
6 argument presented at the hearing on the motion, and any other matters the Court deems proper.  
7 In addition to the documents listed herein, Defendants' alternative motion for partial summary  
8 judgment also is based on the Declaration of Janette Gochan and exhibits thereto.

9  
10 Dated: April 24, 2008

ANDREW R. LIVINGSTON  
ERIN M. CONNELL  
ORRICK, HERRINGTON & SUTCLIFFE LLP

11  
12  
13 By: /s/ Erin M. Connell  
14 Erin M. Connell

15 Attorneys for Defendants  
16 Chase Home Finance, LLC (on behalf of itself  
and as successor in interest to Chase  
17 Manhattan Mortgage Corporation)  
and James Boudreau